

March 20, 2020

Mr. Michael J. Pieranunzi, PLA
Century Engineering
10710 Gilroy Rd.
Hunt Valley MD 21031

Re: Hamm Property, 10621 Philadelphia Rd.
Forest Conservation Variance
Tracking # 06-19-3054

Dear Mr. Pieranunzi:

A request for a variance from the Baltimore County Forest Conservation Law for the referenced property was received by the Department of Environmental Protection and Sustainability (EPS) on March 13, 2020. The request proposes to remove nine *Quercus rubra* (30 to 38-inches DBH-diameter at breast height), five *Acer rubrum* (30-35-inches DBH), five *Liriodendron tulipifera* (32-57-inches DBH), and one *Q. alba* (45-inch DBH) in order to construct a self-storage facility and associated infrastructure on the referenced property. The specimen trees proposed for removal are all in fair to good condition and are located within forest. Thirteen specimen trees are to be retained within protective easements on the property. The site is located within the Honeygo Run watershed.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116 of the Baltimore County Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One of the three criteria under Subsection 33-6-116 (d) must be met, and all three of the criteria under Subsection 33-6-116 (e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116 (d)(1) of the Code) requires that the petitioner show that the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. Due to site constraints and infrastructure requirements, the applicant has located the development to minimize impacts to specimen trees to the extent possible. Without removal of the 20 specimen trees, practical commercial use of the property may not be feasible. However, minor commercial uses could be viable on the site without impacts to all of these trees. Therefore, the petitioner would not be deprived of all beneficial use of the property, and this criterion is not met.

The second criterion (Subsection 33-6-116 (d) (2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions in the neighborhood. This variance request is due to the specimen tree locations on the referenced property in relation to the proposed development of the site for a self-storage facility and the

necessary infrastructure. The development proposed is based on these unique conditions of the property, and not from general conditions of the neighborhood. Therefore, this criterion is met.

The third criterion (Subsection 33-6-116 (d) (3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The property is adjacent to six residential properties on Philadelphia road, but the remainder of the area is in commercial use. Therefore, the proposed commercial development of the site would be compatible with the neighborhood, and this criterion is met.

The fourth criterion (Subsection 33-6-116 (e) (1) of the Code) requires that the granting of the special variance will not adversely affect water quality. Development of the site must comply with forest buffer requirements by retaining forest areas adjacent to streams and wetlands, and by providing mitigation for any forest buffer impacts. Also, forest conservation requirements must be met, and this will include retention of existing forest, including thirteen specimen trees. In addition, stormwater management must be provided in accordance with current County regulations. Based on this, water quality impacts can be minimized by providing forest buffer and forest conservation mitigation, and stormwater management. Therefore, this criterion is met.

The fifth criterion (Subsection 33-6-116 (e) (2) of the Code) requires that the special variance request does not arise from a condition or circumstance, which is the result of actions taken by the petitioner. This request is based on the specimen tree locations , and the proposed development requirements. There has been no work conducted on the property that would have required this request. Therefore, this criterion is met.

The sixth criterion (Subsection 33-6-116 (e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. The development must meet all forest conservation requirements outlined in this Code, including mitigation for specimen trees approved for removal. Therefore, this criterion is met.

Based upon our review, this Department finds that the required variance criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code, with the following conditions:

1. Meeting forest conservation requirements for the area of forest cleared will provide the mitigation for the specimen trees to be removed. The final forest conservation plan (FCP) for this project must be submitted and approved by EPS prior to issuance of any permits. The approved forest conservation worksheet, and all required notes, including information concerning the protection of the specimen tree to be retained must be included in this plan.

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2. On all project plans, label specimen trees as “retain” or “remove” and add the following note:

A forest conservation special variance was granted by Baltimore County Department of Environmental Protection and Sustainability on March 20, 2020 to allow for the removal of 20 specimen trees on this project site. Mitigation was provided by meeting all forest conservation requirements as outlined on the forest conservation plan for the project. If any specimen tree shown on the plan “to remain” is proposed to be removed, special variance approval or written authorization must first be obtained from the Department of Environmental Protection & Sustainability.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and an amended variance request.

Please have the property owner sign the statement at the end of this letter and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please contact Paul Dennis at (410) 887-3980.

Sincerely yours,

David V. Lykens
Director

DVL/pad

c: Marian Honeczy MDDNR

I/we agree to the above conditions to bring my/our property into compliance with Baltimore County Forest Conservation Law.

Property Owner(s)

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Date

Printed Name(s)